



# DUAL STATUS RESOURCE NOTEBOOK

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***MEMORANDUM OF UNDERSTANDING***

MEMORANDUM OF UNDERSTANDING BETWEEN  
 \_\_\_\_\_ COUNTY JUVENILE PROBATION  
 AND  
 INDIANA DEPARTMENT OF CHILD SERVICE, LOCAL OFFICE IN \_\_\_\_\_

This Memorandum of Understanding (MOU) establishes a framework for increasing and enhancing interagency communication and collaboration between the \_\_\_\_\_ County Juvenile Probation Department (hereinafter “Probation”) and the Indiana Department of Child Service, local office in \_\_\_\_\_ (hereinafter “DCS”) to maximize the likelihood of positive outcomes for youth who are dually involved in both the juvenile justice and child welfare system (both systems sometimes hereinafter referred to as “Systems”); specifically this document addresses a dual status child, as defined by I.C. 31-41-1-2.

WHEREAS, the privacy and confidentiality of information regarding a youth in juvenile justice is an important legal and ethical principle; and

WHEREAS, appropriate sharing of information can improve decision-making, care and outcomes for youth and families; and

WHEREAS, youth who are charged with committing delinquent acts or who are charged with status offenses are guaranteed certain constitutional rights; and

WHEREAS, the general Rule of Law as to disclosure of youth-servicing agency records is that they are closed to both public dissemination and interagency sharing, unless statutory exceptions apply; and

WHEREAS, I.C. 31-39-9-1 provides that the court (probation), law enforcement, the department of correction, the DCS, office of family and social services and schools may exchange the information included in the records of a child who is a child in need of service or a delinquent child, if the information or records are not confidential under State or Federal law; and

WHEREAS, it is not the intention of this MOU to supersede existing Federal statutes, specifically HIPAA, FERPA, and 42CFR Part 2, or State statutes, but rather to provide clarity concerning personally identifiable information that can and cannot be disclosed during juvenile justice and child protection proceedings for the purpose of case coordination and planning; and

WHEREAS, the parties agree that the information to be disclosed by both participating systems is based on a legal authority and/or an informed consent to release information by the youth and/the youth’s parent or legal guardian; and

WHEREAS, the parties agree that they will not, without good cause, refuse, to disclose the information necessary to achieve the purposes of this MOU; and

WHEREAS, all records/reports are considered confidential and shall not be released unless otherwise allowed by this MOU, State or Federal law;

NOW, THEREFORE, the parties agree that this Memorandum of Understanding reflects their agreement as to the current permitted and prohibited sharing and uses of information in the Dual System Youth Process. The parties further agree that this MOU does not supersede State or Federal privacy laws or relinquish rights to privacy to which Dual System Youth and their families are entitled. Whenever possible, both Systems are encourage to obtain proper permission for releasing protected information through properly executed consent to release forms. The parties will endeavor to provide assurances to youth, families and other advocates that the information shared will be protected and used in relevant and appropriate ways to benefit the Dual System Youth. If consent forms are not able to be executed, the parties must determine if the request for information falls into one of the State or Federal exceptions. Further, the parties agree that information sharing is limited to case-specific information on a need-to-know basis for professionals who provide services to the Dual System Youth and their families through Probation or the DCS.

Additionally, the parties to this Agreement commit to explore options to facilitate expanded and appropriate sharing of information between their Systems. These efforts include, but are not limited to:

1. Advocacy for obtaining limited waivers from the State and Federal governments for removing obstacles for sharing information; and
2. Reviewing internal policies and procedures within each System that may unnecessarily discourage sharing information between Systems; and
3. Working together, as resources allow, too create a secure database containing permitted relevant and appropriate information.

I. Definition: A Dual Status Child is defined by I.C. 31-41-1-2.

II. Goal: The parties agree that the goal of the relevant statute and the resulting effort, including this MOU, is to better serve the children who cross over into both systems and as such are often the neediest children involved in the juvenile justice system.

III. Internal Confidentiality for Shared Information: The parties to this agreement acknowledge that State and Federal regulations prohibit further disclosure of shared and confidential personally identifiable information without the specific written consent of the person to who it pertains or as otherwise permitted by law or regulation. Both parties agree to carefully observe these duties of confidentiality.

IV. Modification: Both parties agree that any modifications or renewals of this agreement may be made only in a dated writing executed by both of them.

V. Term: This MOU is effective upon the date of the final signature, \_\_\_\_\_, 20\_\_, and shall terminate on June 30, 2017, unless renewed pursuant to Section IV above.

**In Witness Whereof**, the parties hereto have entered into this Memorandum of Understanding and Agreement as evidenced by their signatures below. This Memorandum is effective upon the date of the final signature.

By: \_\_\_\_\_

Judge

\_\_\_\_\_ Court of \_\_\_\_\_ County

\_\_\_\_\_  
DATE

By: \_\_\_\_\_

Chief Probation Officer

\_\_\_\_\_ Court of \_\_\_\_\_ County

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Mary Beth Bonaventura, Director  
Indiana Department of Child Services

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DCS Local Office Director  
\_\_\_\_\_ County

\_\_\_\_\_  
DATE

## TAB 2 FLOW CHART

Probation  
Officer  
contact

DCS FCM  
contact or  
assessment

PO or FCM run Basic screener for dual markers in both JC and JD/JS systems including Informal Adjustments by case management search & consider case facts:

**JD:** 1) Prior JC/JM and new JD

2) Current JC/JM and new JD

3) Current JD/JS and report of current maltreatment/prior substantiation

4) JD ready to exit DOC and no parent available

5) View Facts for indicators of CHINS.

*Exclusion: Permissive and presumptive waiver cases*

**JC:** 1) Current JC/JM and new JD/JS allegation

2) View facts for indicators of delinquency

3) Current JS/JD/JM and new JC allegation

1. Judge notified screen identified dual markers
2. Judge determines if team should be convened
3. Judge enters Order to convene DSA team/ set responsibilities and reset initial hearing.

DSAT convenes: Facilitator leads discussion on case facts and child best interests. Members bring available assessments; relevant reports. Consider factors;

- |                                |                                                                    |
|--------------------------------|--------------------------------------------------------------------|
| 1) Remoteness in time          | 8) Substance abuse issues                                          |
| 2) Siblings                    | 9) Age of child                                                    |
| 3) Nature/level of offense     | 10) Need/level of parent involvement                               |
| 4) Parent criminal/DCS history | 11) Level of maltreatment/neglect                                  |
| 5) Mental health contacts      | 12) Relationship of maltreatment/neglect to JD behavior            |
| 6) Educational needs           | 13) Placement/services available if JC or JD and least restrictive |
| 7) Medical/special needs       | 14) Should both systems be involved                                |

**Recommendation made by Team:**

1. Consider if other Assessments needed, eg.:
  - a. Psychosexual
  - b. Mental Health
  - c. Substance Abuse
2. Recommend Filings:
  - a. Informal adjustment in JC?/JD?
  - b. Modifications in JD?/JD?
  - c. Formal Petitions in JC?/JD?
3. Services needed
4. Whether or not child should be retained in both systems. If both, then name Lead Agency (DCS or Probation)

### **Why do we need dual status processes?**

Any experienced juvenile court judge, case manager or probation officer can cite instances when the line between abuse and neglect (dependency cases) and juvenile delinquency cases becomes blurred. Even before the publication of research on “crossover children”, professionals in both arenas recognized that there were certain cases in which a child required one system’s services in the stead of or in concert with the other. Over the years, caseworkers and probation officers have attempted, with limited anecdotal success, to bridge the gap. Most of the time, however, those efforts were blockaded by entrenched silo mentality.

Case managers and probation officers have share common concerns for children on their respective caseloads. However, resistance is often met when attempts are made to transition a child from one system to the other. Over the past ten years this phenomena has been the subject of significant research. We now know that in certain circumstances a child and the family require the collaborative efforts of both systems. We also have learned that the failure of the two systems to meaningfully work together may negatively impact a child’s future and, ultimately, the safety of our community.

There is a clear nexus between victimization and delinquent/criminal behavior. Youth lacking in protective factors “risk ‘crossing over’ from the child welfare system to the juvenile justice system and other systems of care.”<sup>1</sup> Delinquent or violence associated risk factors within a family are also present in abuse and neglect families. Research has demonstrated that there is a greater likelihood of delinquency among children who have suffered abuse and neglect. We also know that the early onset of delinquency in a child’s life is a predictor of future criminogenic behaviors. Crossover youth present a co-occurrence of problem behaviors in many areas of their lives. They present with common family histories of criminal behavior, mental health problems, substance abuse, or domestic violence victimization.

The failure to meaningfully address the needs of cross over youth results in disproportional treatment of children. In a 1997 New York City study, the researchers found that although only 2% of the overall youth were in foster care, 15% of the children in detention were foster care children. Similarly, African American children are twice as likely to be arrested as similarly situated white youths in the child welfare system. Eighty (80%) to eighty-three (83%) percent of crossover youth exhibit substance abuse of mental health problems. Crossover youth lose eligibility for educational services and they experience truancy and poor academic performance at a greater rate. Thus we know that the accidental selection of

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<sup>1</sup> Quoted from *Two Sides of the Same Coin*, Shay Bilchik ad Judge Michael Nash, Juvenile and Family Justice TODAY, NCJFCJ, Fall, 2008 and Winter 2009, page 17.

one system (by arrest) or the inability of systems to coordinate services for a blended approach often places a child on a trajectory that does not meet the child's needs and best interests.

All of this is true despite the fact that the two systems have employees from similar educational disciplines. Each system uses similar service providers and each system is bound by common federal and state regulatory requirements.

Indiana's Dual Status legislation was developed to correct the plight of the cross over youth. It provides both systems, under the common umbrella of the juvenile court, with the tools to identify, communicate, and implement a coordinated plan that serves a child's best interests and welfare.



***DUAL STATUS CHILD DEFINITION***

**The research:**

**Dually identified Youth** - Youth who are currently involved with the juvenile justice system and have history in the child welfare system but no current involvement (or vice versa)

**Dually-Involved Youth** – Youth who have concurrent involvement (diversionary, formal, or a combination of the two) with both the child welfare and juvenile justice systems.

**Dually-Adjudicated Youth** – Youth who are concurrently adjudicated in both the child welfare and juvenile justice systems (i.e. both dependent and delinquent).

[Quoted from the *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration*, J. Wiig, J. Tuell, with J. Heldman; Robert F. Kennedy Children Action Corps, Third Edition, 2013]

**Statutory definition:**

**31-41-1-2. "Dual status child" defined.**

"Dual status child" means:

- (1) a child who is alleged to be or is presently adjudicated to be a child in need of services under IC 31-34-10 or IC 31-34-11 and is alleged to be or is presently adjudicated to be a delinquent child under IC 31-37-12 or IC 31-37-13;
- (2) a child who is presently named in an informal adjustment under IC 31-34-8 and who is adjudicated a delinquent child under IC 31-37-12 or IC 31-37-13;
- (3) a child who is presently named in an informal adjustment under IC 31-37-9 and who is adjudicated to be a child in need of services under IC 31-34-10 or IC 31-34-11;
- (4) a child who:
  - (A) has been previously adjudicated to be a child in need of services under IC 31-34-10 or IC 31-34-11; or
  - (B) was a participant in a program of informal adjustment under IC 31-34-8; and who was under a wardship that had been terminated or was in a program of informal adjustment that had concluded before the current delinquency petition;
- (5) a child who was:
  - (A) previously adjudicated to be a delinquent child under IC 31-37-12 or IC 31-37-13 that was closed; and
  - (B) a participant in a program of informal adjustment under IC 31-37-9 which was concluded prior to a child in need of services proceeding; and
- (6) a child:
  - (A) who is eligible for release from commitment of the department of correction;
  - (B) whose parent, guardian, or custodian:
    - (i) cannot be located; or
    - (ii) is unwilling to take custody of the child; and
  - (C) for whom the department of correction is requesting a modification of the dispositional decree under IC 31-30-2-4.

**TAB 5**  
**DUAL STATUS SCREENING TOOL**  
**CHINS PRELIMINARY INQUIRY**

**Onset of Case – Dual status identification – Preliminary Inquiry Screening**

**SEE FORM: *DUAL STATUS SCREENING TOOL REPORT – TAB 5***

**31-41-1-3. "Dual status screening tool" defined.**

"Dual status screening tool" means a factual review of a child's status and history conducted by the case manager under IC 31-34 or the probation officer under IC 31-37 to determine whether a child meets the criteria for being a dual status child as defined by section 2 [IC 31-41-1-2] of this chapter.

**CHINS PRELIMINARY INQUIRY STATUTE:**

**31-34-7-1. Information given to intake officer -- Investigation.**

A person may give an intake officer written information indicating that a child is a child in need of services. If the intake officer completing the preliminary inquiry has reason to believe that the child is a child in need of services, the intake officer shall:

(1) make a preliminary inquiry to determine whether the interests of the child require further action; and

(2) *complete the dual status screening tool on the child, as described in IC 31-41-1-3.*

Whenever practicable, the preliminary inquiry should include information on the child's background, current status, and school performance.

**31-34-7-2. Inquiry to be sent to attorney for department with recommendation.**

The intake officer shall send to the attorney for the department a copy of the preliminary inquiry. The intake officer shall recommend whether to:

(1) file a petition;

(2) *file a petition and recommend that the child be referred for an assessment by a dual status assessment team as described in IC 31-41-1-5;*

(3) informally adjust the case;

(4) *informally adjust the case and recommend that the child be referred for an assessment by the dual status assessment team as described in IC 31-41-1-5;*

(5) refer the child to another agency; or

(6) dismiss the case.

**31-34-9-2. Consideration by court and finding of probable cause.**

The juvenile court shall do the following:

(1) Consider the preliminary inquiry and the evidence of probable cause that is contained in the report of the preliminary inquiry or an affidavit of probable cause.

(2) Authorize the filing of a petition if the court finds probable cause to believe that the child is a child in need of services.

(3) *Determine if a child should be referred for an assessment by a dual status assessment team as described in IC 31-41-1-5.*

**31-34-10-2. Initial hearing**

(a) The juvenile court shall hold an initial hearing on each petition within ten (10) days after the filing of the petition.

- (b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:
- (1) The child.
  - (2) The child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate.
  - (3) Any other person necessary for the proceedings.
- (c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.
- (d) If the initial hearing is not scheduled and held within the specified time as described in this section, the child shall be released to the child's parent, guardian, or custodian.

*(e) The juvenile court shall determine if a child should be referred for an assessment by a dual status assessment team as described in IC 31-41-1-5. In making its determination, the court shall consider the length of time since the delinquent act or the incident of abuse or neglect.*

*(f) The court may schedule an additional initial hearing on the child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section, including if the court refers a child to be assessed by a dual status assessment team. An additional initial hearing shall be conducted if the court refers a child to be assessed by a dual status assessment team unless the court has:*

- (1) granted an extension of time due to extraordinary circumstances; and*
- (2) stated the extraordinary circumstances in a written court order.*

(g) Except for cases in which a child has been referred for an assessment by a dual status assessment team, an additional initial hearing on the child in need of services petition shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition, unless the court has:

- (1) granted an extension of time for extraordinary circumstances; and
- (2) stated the extraordinary circumstance in a written court order.

(h) The department shall provide notice of the date, time, place, and purpose of the initial hearing and any additional initial hearing scheduled under this section to each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The court shall:

- (1) provide a:
  - (A) person for whom a summons is required to be issued under subsection (b); and
  - (B) person who is required to be notified under this subsection; andan opportunity to be heard; and
- (2) allow a person described in subdivision (1) to make recommendations to the court; at the initial hearing.

(i) A petition alleging that a child is a child in need of services shall be filed before a detention hearing concerning the child is held.

(j) If a detention hearing is held under IC 31-34-5, the initial hearing on the child in need of services petition shall be held at the same time as the detention hearing.

(k) The court may schedule an additional initial hearing on a child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(l) An additional initial hearing under subsection (k) shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition unless the court:

- (1) grants an extension of time for extraordinary circumstances; and
- (2) states the extraordinary circumstance in a written court order.

### **34-8-1. Implementation of program of Informal Adjustment**

(a) After the preliminary inquiry and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has probable cause to believe that the child is a child in need of services.

(b) If the juvenile court denies a program of informal adjustment, the court shall state its reasons for the denial. The reasons may include that:

(1) the juvenile court finds no probable cause to believe that the child is a child in need of services; or

(2) the juvenile court finds that the coercive intervention of the juvenile court is required.

(c) If the juvenile court does not act to either:

(1) approve or deny a program of informal adjustment; or

(2) set a hearing date;

within ten (10) days of its submission to the juvenile court, the program of informal adjustment is considered approved.

(d) If:

(1) the juvenile court sets a hearing under subsection (c); and

(2) the hearing is not concluded and action taken to approve or deny the program of informal adjustment within thirty (30) days of the submission of the program to the juvenile court;

the program of informal adjustment is considered approved.

***If the child is found to be a dual status child based on the screening then refer to Assessment Team  
See TAB 6.***

### **31-41-2-1. Referral for Assessment**

After a juvenile court has determined that a child is a dual status child, the juvenile court shall refer the child to be assessed by a dual status assessment team.

# **DELINQUENCY PRELIMINARY PROCESS**

***DELINQUENCY PRELIMINARY INQUIRY DUAL STATUS SCREENING TOOL*****Onset of Case – Dual status identification – Preliminary Inquiry Screening****SEE FORM: *DUAL STATUS SCREENING TOOL REPORT – TAB 5*****31-41-1-3. "Dual status screening tool" defined.**

"Dual status screening tool" means a factual review of a child's status and history conducted by the case manager under IC 31-34 or the probation officer under IC 31-37 to determine whether a child meets the criteria for being a dual status child as defined by section 2 [IC 31-41-1-2] of this chapter.

**DELINQUENCY PRELIMINARY INQUIRY STATUTE:****31-37-8-1. Information given to intake officer -- Forwarding to prosecuting attorney -- Preliminary inquiry.**

- (a) A person may give an intake officer or a prosecuting attorney written information indicating that a child is a delinquent child.
- (b) If the information is given to the intake officer, the intake officer shall:
  - (1) immediately forward the information to the prosecuting attorney; and
  - (2) *complete a dual status screening tool on the child, as described in IC 31-41-1-3.*
- (c) If the prosecuting attorney has reason to believe the child has committed a delinquent act, the prosecuting attorney shall instruct the intake officer to make a preliminary inquiry to determine whether the interests of the public or of the child require further action.

**31-37-8-5. Duties of intake officer.**

- (a) The intake officer shall do the following:
  - (1) Send the prosecuting attorney a copy of the preliminary inquiry.
  - (2) *Recommend whether to:*
    - (A) file a petition;
    - (B) *file a petition and recommend that the child be referred for an assessment by a dual status assessment team as described in IC 31-41-1-5;*
    - (C) informally adjust the case;
    - (D) *informally adjust the case and recommend that the child be referred for an assessment by a dual status assessment team as described in IC 31-41-1-5;*
    - (E) refer the child to another agency; or
    - (F) dismiss the case.
- (b) *The prosecuting attorney and the court may agree to alter the procedure described in subsection (a).*

**31-37-8-2. Preliminary inquiry.**

A preliminary inquiry is an informal investigation into the facts and circumstances reported to the court. Whenever practicable, the preliminary inquiry should include the following information:

- (1) The child's background.
- (2) The child's current status.
- (3) The child's school performance.
- (4) If the child has been detained:
  - (A) efforts made to prevent removal of the child from the child's home, including the

identification of any emergency situation that prevented reasonable efforts to avoid removal;

(B) whether it is in the best interests of the child to be removed from the home environment; and

(C) whether remaining in the home would be contrary to the health and welfare of the child.

(5) *The results of a dual status screening tool to determine whether the child is a dual status child, as described in IC 31-41-1-2.*

### **31-37-10-2. Approval of petition.**

The juvenile court shall do the following:

(1) Consider the preliminary inquiry and the evidence of probable cause.

(2) Approve the filing of a petition if there is probable cause to believe that:

(A) the child is a delinquent child; and

(B) it is in the best interests of the child or the public that the petition be filed.

### **31-37-12-2. Initial hearing -- Summons -- Notice.**

(a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

(1) The child.

(2) The child's parent, guardian, custodian, or guardian ad litem.

(3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) The prosecuting attorney or the probation department of the juvenile court shall provide notice of the time, place, and purpose of the initial hearing scheduled or held under this section to each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5 or IC 31-37-7.

The court shall:

(1) provide a:

(A) person for whom a summons is required to be issued under subsection (b); and

(B) person required to be notified under this subsection;  
an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;  
at the initial hearing.

(e) The juvenile court shall determine if a child should be referred for an assessment by a dual status assessment team as described in IC 31-41. In making its determination, the court shall consider the length of time since the delinquent act or the incident of abuse or neglect.

(f) *If the court refers the child for an assessment by a dual status assessment team, the court shall schedule an additional initial hearing on the petition if the court refers a child to be assessed by a dual status assessment team unless the court:*

(1) *grants an extension of time due to extraordinary circumstances; and*

(2) *states the extraordinary circumstances in a written court order.*

### **31-37-9-1. Implementation of program of Informal Adjustment**

(a) After the preliminary inquiry and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has probable cause to believe that the child is a delinquent child and the child is not removed from the child's home.

(b) *If the program of informal adjustment includes services requiring payment by the department under IC 31-40-1, the intake officer shall submit a copy of the proposed program to the department before submitting it to the juvenile court for approval. Upon receipt of the proposed program, the department may submit its comments and recommendations, if any, to the intake officer and the juvenile court.*

*If the child is found to be a dual status child based on the screening then refer to Assessment Team  
See TAB 6.*

**31-41-2-1. Referral for Assessment**

After a juvenile court has determined that a child is a dual status child, the juvenile court shall refer the child to be assessed by a dual status assessment team.



# **SCREEN AT ADJUDICATION**

***DUAL STATUS SCREEN AT TIME OF ADJUDICATION***

**A child may be also screened in as a Dual Status Child at the time of adjudication and Disposition.**

**CHILD IN NEED OF SERVICES RELATED STATUTES:****31-34-11-2. Judgment -- Predisposition report -- Disposition hearing.**

- (a) If the court finds that a child is a child in need of services, the court shall:
  - (1) enter judgment accordingly;
  - (2) order a predisposition report;
  - (3) schedule a dispositional hearing; and
  - (4) complete a dual status screening tool on the child, as described in IC 31-41-1-3.
- (b) If a court determines a child is a dual status child, the court may refer the child for an assessment by a dual status assessment team as described in IC 31-41-1-5.

**CHILD ADJUDICATED TO BE DELINQUENT****31-37-13-2. Judgment -- Predispositional report -- Disposition hearing.**

- (a) If the court finds that a child is a delinquent child, the court shall do the following:
  - (1) Enter judgment accordingly.
  - (2) Order a predispositional report.
  - (3) Schedule a dispositional hearing.
  - (4) Complete a dual status screening tool on the child, as described in IC 31-41-1-3, and determine whether the child is a dual status child as described in IC 31-41-1-2.
- (b) If a child is determined to be a dual status child, the court may refer the child for an assessment by a dual status assessment team as described in IC 31-41.

**SEE FORM: *DUAL STATUS SCREENING TOOL REPORT – TAB 5***

# **SCREEN TOOL REPORT**

**TAB 5**  
**SCREENING TOOL REPORT**  
**C-14.01/D-16.06**

STATE OF INDIANA

\_\_\_\_\_ COURT

CAUSE NO. 00X00-0000-XX-00000

In the Matter of \_\_\_\_\_,

Date of Birth : 00/00/0000

Current Age: 00

**DUAL STATUS SCREENING TOOL REPORT**

Under IC 31-34-7-1 or IC 31-37-8-1, the undersigned DCS Family Case Manager or Probation Officer has completed a factual review of the child's status and history and reports the following:

- ☐ Child has NOT been identified as a dual status child.
- ☐ Child has been identified as a dual status child as follows:

Department of Child Services:

- ☐ Child is alleged to be a victim of abuse or neglect; the child's circumstances may support a finding of Child in Need of Services.
- ☐ Child is presently adjudicated to be a Child in Need of Services in Cause No. \_\_\_\_\_.
- ☐ Child was previously adjudicated to be a Child in Need of Services in Cause No. \_\_\_\_\_.
- ☐ Child is presently named in an Informal Adjustment – CHINS in Cause No. \_\_\_\_\_.
- ☐ Child was previously a participant in an Informal Adjustment – CHINS in Cause No. \_\_\_\_\_.

Delinquency:

- ☐ Child is alleged to have committed a delinquent act; circumstances may support a finding that the child committed a delinquent act.
- ☐ Child is presently adjudicated a delinquent child in Cause No. \_\_\_\_\_.
- ☐ Child was previously adjudicated to be a delinquent child in Cause No. \_\_\_\_\_.
- ☐ Child is presently named in an Informal Adjustment – Delinquency in Cause No. \_\_\_\_\_.
- ☐ Child was previously a participant in an Informal Adjustment - Delinquency in Cause No. \_\_\_\_\_.
- ☐ Child is eligible for release from the Department of Correction, the parent/guardian/custodian either cannot be located or is unwilling to take custody of the child, and the Department of Correction is requesting a modification of the dispositional decree.

Under IC 31-34-7-2 or IC 31-37-8-5, DCS Family Case Manager or Probation Officer recommends the following:

- ☐ Child should be referred for an assessment by a Dual Status Assessment Team.
- ☐ Child should NOT be referred for an assessment by a Dual Status Assessment Team.

[BRIEFLY SUMMARIZE HISTORY AND REASONS FOR RECOMMENDATION OR REFERENCE THE PRELIMINARY INQUIRY]

If abuse or neglect is alleged, the DCS has been notified under IC 31-33-5-1.

DATED: [DATE]

\_\_\_\_\_  
[NAME] [AGENCY]

## ASSESSMENT TEAM REFERRAL PROCEDURE

**SEE FORM: REFERRAL TO DUAL STATUS ASSESSMENT TEAM - TAB 6**

**PRACTICE NOTE:** A petition need not be filed prior to the assessment referral. If referred for Dual Status Assessment Team and a petition has been filed then the additional initial hearing should be reset as provided in IC 31-34-10-2 and/or 31-37-12-2

*If the child is found to be a dual status child based on the screening then:*

**31-41-2-1. Referral to assessment team**

After a juvenile court has determined that a child is a dual status child, the juvenile court shall refer the child to be assessed by a dual status assessment team.

**31-41-1-5. "Dual status assessment team" defined.**

"Dual status assessment team" means a committee assembled and convened by a juvenile court to recommend the proper legal course for a dual status child.

**PRACTICE NOTE:** The membership of the Assessment Team must include the DCS Case Manager and the Probation Officer. The remaining members of the team are selected at the Court's discretion and may vary as the needs of the child's case dictates.

**31-41-2-2. Composition of dual status assessment team.**

(a) The dual status assessment team shall include:

- (1) if the child has a department of child services case manager, the case manager;
- (2) if the child does not have a department of child services case manager, a representative of the department of child services appointed by the local department of child services director;
- (3) if the child has a probation officer, that probation officer;
- (4) if the child does not have a probation officer, a probation officer appointed by the court; and
- (5) a meeting facilitator, who may be a member of the dual status assessment team described in subdivisions (1) through (4) or may be a person appointed by the juvenile court.

(b) The dual status assessment team may include:

- (1) the child if the juvenile court deems the child is age appropriate;
- (2) the child's public defender or attorney;
- (3) the child's parent, guardian, or custodian;
- (4) the child's parent's attorney;
- (5) a prosecuting attorney;
- (6) the attorney for the department;
- (7) a court appointed special advocate or a guardian at litem;
- (8) a representative from the department of correction;
- (9) a school representative;
- (10) an educator;
- (11) a therapist;
- (12) the child's foster parent; and
- (13) a service provider appointed by the team or the juvenile court.

**PRACTICE NOTE: The Court should:**

- ▶ Order each member of the Dual Status Assessment Team to attend the meeting and bring copies of all agency or other records possessed regarding and relevant to the child;
- ▶ Direct that the Dual Status Assessment Team shall designate a member to submit the Recommendation of Dual Status Assessment Team at least two (2) days prior to the next scheduled hearing date regarding a course of action for the child.
- ▶ The meeting should be considered exigent and it is recommended that the meeting be established in the Court's referral order.
- ▶ The time for the meeting should be set with an understanding of the child's sense of time.

**DUAL STATUS  
ASSESSMENT  
REFERRAL FORM**

**TAB 6**  
**DUAL STATUS ASSESSMENT REFERRAL FORM**  
**C-14.02/D-16.07**

STATE OF INDIANA

\_\_\_\_ COURT

CAUSE NO. 00X00-0000-XX-00000

In the Matter of \_\_\_\_\_,  
a Child Alleged to be a Delinquent Child/Child in Need of Services

**REFERRAL TO  
DUAL STATUS ASSESSMENT TEAM**

Under IC 31-34-7 or IC 31-37-8, a DCS Family Case Manager or Probation Officer has completed a Dual Status Screening Tool Report, identified the child as a dual status child, and recommended the child be referred for an assessment by a Dual Status Assessment Team.

Court has considered all relevant factors and determines the child

- ☐ should NOT be referred for an assessment by a Dual Status Assessment Team.
- ☐ should be referred for an assessment by a Dual Status Assessment Team.

----- OR -----

Under IC 31-34-11-2 or IC 31-37-13-2, Court has entered an adjudication, completed a Dual Status Screening Tool, and identified the child as a dual status child.

Court, being duly advised,

- ☐ does NOT refer the child for an assessment by a Dual Status Assessment Team.
- ☐ refers the child for an assessment by a Dual Status Assessment Team.

-----

Facilitator shall convene a meeting of the following members of the Dual Status Assessment Team within ten (10) days of the date of this referral to consider any allegations of abuse or neglect suffered by the child and any allegation the child is delinquent.

Facilitator: [NAME]

DCS Case Manager or DCS Representative Appointed by Local Director: [NAME]

Probation Officer or Probation Representative Appointed by Court: [NAME]

Court authorizes the following members to attend said meeting as requested by the Facilitator:

- ☐ Child
- ☐ Child's Public Defender or Attorney: [NAME]
- ☐ Child's Parent(s): [NAME]
- ☐ Child's Parent(s)'s Attorney: [NAME]



- ☐ Prosecuting Attorney: [NAME]
- ☐ DCS Attorney: [NAME]
- ☐ CASA/GAL: [NAME]
- ☐ DOC Representative: [NAME]
- ☐ School Representative: [NAME]
- ☐ Educator: [NAME]
- ☐ Therapist: [NAME]
- ☐ Child's Foster Parent(s): [NAME]
- ☐ Service Provider Appointed by Team: [NAME]
- ☐ Service Provider Appointed by Court: [NAME]

Each member of the Dual Status Assessment Team shall attend said meeting and bring copies of all agency or other records possessed regarding and relevant to the child. The Dual Status Assessment Team shall assess the child's status, best interests, and need for services as well as the level of needs, strengths, and risk of the child.

Under IC 31-41-4, all statements communicated in a Dual Status Assessment Team meeting are not admissible as evidence against the child in any judicial proceeding and are not discoverable in any litigation.

The Dual Status Assessment Team shall consider the child's best interests and well-being including the following:

- (1) child's mental health, including any diagnosis
- (2) child's school records, including attendance and achievement level
- (3) child's statements
- (4) statements of child's parent(s), guardian(s), custodian(s)
- (5) impact of child's behavior on any victim
- (6) safety of the community
- (7) child's needs, strengths, and risk
- (8) need for a parent participation plan
- (9) efficacy and availability of services and community providers
- (10) whether appropriate supervision of child can be achieved by dismissal of delinquency adjudication in deference to CHINS adjudication
- (11) whether appropriate supervision of child can be achieved by combining delinquency adjudication or informal adjustment with CHINS petition
- (12) child's placement needs
- (13) restorative justice practices that may be appropriate
- (14) whether CHINS petition or informal adjustment should be filed or dismissed
- (15) whether delinquency petition or informal adjustment should be filed or dismissed
- (16) availability of coordinated services regardless of whether child is adjudicated CHINS or delinquent
- (17) whether team recommends exercise of dual adjudication and the lead agency to provide services
- (18) any other information considered appropriate by the team

The Dual Status Assessment Team shall designate a member to submit the Recommendation of Dual Status Assessment Team at least two (2) days prior to the next scheduled hearing date regarding a course of action for the child including:

- (A) whether the Court should proceed with an additional hearing regarding the CHINS petition and dismiss a pending delinquency petition or informal adjustment at the conclusion of a CHINS adjudication
- (B) whether the Court should proceed with an additional hearing regarding a delinquency petition and dismiss a pending CHINS petition or informal adjustment at the conclusion of a delinquency adjudication
- (C) whether the Court should proceed with an additional hearing and adjudication or informal adjustment concerning both a CHINS petition and a delinquency petition
- (D) what agency should be the lead agency in the child's supervision
- (E) any other matters relevant to the child's best interests including any services to be included in a dispositional decree

Court schedules an additional Hearing on [DATE] at [TIME] in [COURT] at which time all parties are ordered to appear.

So REFERRED: [DATE]

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Judge

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**IYAS – Indiana Youth Assessment System**

**CANS – Child and Adolescent Needs and Strengths**

**DRAI – Detention Risk Assessment Instrument**

**MAYSI – Massachusetts Youth Screening Instrument**

**SASSI – Substance Abuse Subtle Screening Inventory**

**IEP – Individualized Education Program**

# **DUAL STATUS ASSESSMENT MEETING**

**TAB 6**

**DUAL STATUS ASSESSMENT MEETING**

**31-41-1-4. “Dual status assessment” defined.**

“Dual status assessment” means a review by a dual status assessment team to assess a dual status child’s:

- (1) status;
- (2) best interests;
- (3) need for services; and
- (4) level of needs, strengths, and risks of the child.

**31-41-2-3. Dual status assessment team meeting.**

- (a) The dual status assessment team shall meet within ten (10) days of the date ordered by the juvenile court.
- (b) The dual status assessment team shall be convened by the facilitator described in section 2(a)(6) [IC 31-41-2-2(a)(6)] of this chapter.
- (c) The dual status assessment team shall consider:
  - (1) any allegations of abuse or neglect suffered by the child; and
  - (2) any allegation that the child is a delinquent child under IC 31-37-1-1 or IC 31-37-2-1.

***CONFIDENTIALITY OF MEETING: (See Also Practice Note at of this Tab)***

**31-41-2-4. Statements communicated in assessment meeting.**

All statements communicated in a dual status assessment team meeting are:

- (1) not admissible as evidence against the child in any judicial proceeding; and
- (2) not discoverable in any litigation.

**31-41-2-5. Factors to be considered. [In addition to those listed in IC31-41-2-3 (above).]**

The dual status assessment team shall consider the child’s best interests and well-being, including:

- (1) the child’s mental health, including any diagnosis;
- (2) the child’s school records, including attendance and achievement level;
- (3) the child’s statements;
- (4) the statements of the child’s parent, guardian, or custodian;
- (5) the impact of the child’s behavior on any victim;
- (6) the safety of the community;
- (7) the child’s needs, strengths, and risk;
- (8) the need for a parent participation plan;
- (9) the efficacy and availability of services and community providers;
- (10) whether appropriate supervision of the child can be achieved by the dismissal of a delinquency adjudication in deference to a child in need of services adjudication;
- (11) whether appropriate supervision of the child can be achieved by combining a delinquency adjudication or informal adjustment with a child in need of services petition;
- (12) the child’s placement needs;
- (13) restorative justice practices that may be appropriate;
- (14) whether a child in need of services petition or informal adjustment should be filed or dismissed;
- (15) whether a delinquency petition or informal adjustment should be filed or dismissed;
- (16) the availability of coordinated services regardless of whether the child is adjudicated to be a child in need of services or a delinquent child;
- (17) whether the team recommends the exercise of dual adjudication and the lead agency to provide supervision of the child; and
- (18) any other information considered appropriate by the team.

# **DUAL STATUS ASSESSMENT REPORT PROCESS**

**TAB 6**

**DUAL STATUS ASSESSMENT REPORT PROCESS**

**FOR DUAL STATUS ASSESSMENT REPORT FORM SEE TAB 6**

**31-41-2-6. Written report and recommendation.**

After a dual status assessment team has met to assess a child, the team shall:

- (1) designate a member to prepare the written report for the juvenile court; and
  - (2) provide recommendations, including:
    - (A) whether the court should proceed with an additional initial hearing regarding the petition alleging the child is in need of services and dismiss a pending delinquency petition or informal adjustment at the conclusion of a child in need of services adjudication;
    - (B) whether the court should proceed with an additional initial hearing regarding a petition alleging that the child is a delinquent child under IC 31-37-1 and dismiss a pending child in need of services petition or informal adjustment upon conclusion of the delinquency adjudication;
    - (C) whether the court should proceed with an additional initial hearing and adjudication or informal adjustment concerning a child in need of services petition and a delinquency petition under IC 31-37-1;
    - (D) what agency should be the lead agency in a child's supervision; and
- € any other matters relevant to the child's best interests, including any services to be included in a dispositional decree.

If the probation department of the juvenile court is designated as the lead agency under IC 31-41-3, any recommendations made by the dual status assessment team under subdivision (2) must be consistent with the funding provisions of IC 31-37.

**A NOTE ON PUBLIC ACCESS:**

Public access is permitted in some limited circumstances when a delinquency petition is filed. For example public access is permitted when a petition is filed alleging that a child committed murder or an act that would be a felony of committed by an adult. (IC 31-30-9-2-8(a) ). Public access is only permitted once the petition is filed. The information subject to public access is limited to that which is provided under the statute: eg. Name, age, nature of offense, CCS entries, and any decree of adjudication.

Under HB 1196, a petition (re: a felony or otherwise) may or may not be filed at the time the case is referred to the Dual Jurisdiction Assessment Team. If a petition is not filed then no access would be permitted. However, if a petition is filed, then the media would only be allowed the information listed above. The details form the Assessment Team report is not one of the items listed as being eligible for release. It would be my opinion, therefore, that the CHINS case, if any is resulting from the assessment, would remain confidential. Under current law, motions concerning child abuse and neglect are excluded from public access. (See IC 31-39-2-8(b)(10)).

The bottom line this: If a petition alleging that the child committed a crime that would be a felony of committed by an adult is filed, then public access would still be permitted notwithstanding the Assessment Team process. However, if the petition is not filed prior to the referral then public access would not be permitted. Any referral for a CHINS case would remain confidential.

If a delinquency petition is filed that meets the requirements for public access and is later dismissed per the recommendation of the Assessment team, then the dismissal would be a matter of public access.

**DUAL STATUS  
ASSESSMENT  
TEAM REPORT  
FORM**

**TAB 6**  
**DUAL STATUS ASSESSMENT TEAM REPORT FORM**  
**C-14.03/D-16.08**

STATE OF INDIANA

\_\_\_\_\_  
COURT

CAUSE NO. 00X00-0000-XX-00000

In the Matter of \_\_\_\_\_,

**RECOMMENDATION OF DUAL STATUS ASSESSMENT TEAM**

Pursuant to IC 31-41, the following members of the Dual Status Assessment Team met on 00/00/0000:  
[List Members Who Attended Meeting]

The Dual Status Assessment Team has considered the following allegation(s) of abuse or neglect suffered by the child: [List Allegations of Abuse or Neglect]

The Dual Status Assessment Team has considered the following allegation(s) the child is a delinquent child: [List Delinquency Allegations]

The Dual Status Assessment Team has considered the child's best interests and well-being of the child.

The undersigned designated members submit this written report on behalf of the Dual Status Assessment Team.

The Dual Status Assessment Team submits the following recommendations:

- ☐ The court should proceed with an additional initial hearing regarding the petition alleging the child is in need of services and dismiss a pending delinquency petition or informal adjustment at the conclusion of a child in need of services adjudication.
- ☐ The court should proceed with an additional initial hearing regarding a petition alleging that the child is a delinquent child under IC 31-37-1 and dismiss a pending child in need of services petition or informal adjustment upon conclusion of the delinquency adjudication.
- ☐ The court should proceed with an additional initial hearing and adjudication or informal adjustment concerning a child in need of services petition and a delinquency petition under IC 31-37-1.
- ☐ The following agency should be the lead agency in a child's supervision:
  - ☐ Department of Child Services
  - ☐ Probation Department
- ☐ The following services should be included in a dispositional decree:
- ☐ Other:
- ☐ Alternate recommendations are submitted by [INSERT NAME] as follows:

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Name  
Probation Department

\_\_\_\_\_  
Name  
Department of Child Services



***DUAL STATUS LEAD AGENCY AND ADJUDICATION***

**31-41-3-1 Court's adjudication AND LEAD AGENCY**

(a) If a child has been adjudicated to be a:

- (1) child in need of services under IC 31-34; and
- (2) delinquent child under IC 31-37;

unless the court adopts a contrary recommendation by a dual status assessment team, the court making the later adjudication may determine if the department of child services or the probation department of the juvenile court shall be the *lead agency* that will supervise the dual status child.

(b) In making a determination under subsection (a), the court shall consider:

- (1) the child's social and family situation;
- (2) the child's experiences with the department of child services;
- (3) the child's prior adjudications of delinquency;
- (4) the recommendations of the dual status assessment team; and
- (5) the needs, strengths, and risks of the child.

(c) The court may require the department of child services and the probation department of the juvenile court to work together in the supervision of a dual status child and for the purposes of filing a modification under IC 31-34-23 or IC 31-37-22. If the probation department of the juvenile court is designated as the lead agency under this chapter, any recommendations made by the probation department under this subsection must be consistent with the funding provisions of IC 31-37.

(d) A court may order any service for a dual status child under this chapter that is available:

- (1) to a child in need of services under IC 31-34; or
- (2) to a delinquent child under IC 31-37.

**CHINS ORDERS:**

**31-34-19-10. Findings and conclusions.**

(a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning the following:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
- (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
- (3) Efforts made, if the child is a child in need of services, to:
  - (A) prevent the child's removal from; or
  - (B) reunite the child with;

the child's parent, guardian, or custodian in accordance with federal law.

(4) Family services that were offered and provided to:

- (A) a child in need of services; or
- (B) the child's parent, guardian, or custodian;

in accordance with federal law.

(5) The court's reasons for the disposition.

(6) *Whether the child is a dual status child under IC 31-41.*

(b) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

## **DELINQUENCY ORDERS:**

### **31-37-18-9. Findings and conclusions**

(a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning approval, modification, or rejection of the dispositional recommendations submitted in the pre-dispositional report, including the following specific findings:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
- (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
- (3) Efforts made, if the child is removed from the child's parent, guardian, or custodian, to:
  - (A) prevent the child's removal from; or
  - (B) reunite the child with;  
the child's parent, guardian, or custodian.
- (4) Family services that were offered and provided to:
  - (A) the child; or
  - (B) the child's parent, guardian, or custodian.
- (5) The court's reasons for the disposition.
- (6) *Whether the child is a dual status child under IC 31-41.*

(b) If the department does not concur with the probation officer's recommendations in the pre-dispositional report and the juvenile court does not follow the department's alternative recommendations, the juvenile court shall:

- (1) accompany the court's dispositional decree with written findings that the department's recommendations contained in the pre-dispositional report are:
  - (A) unreasonable based on the facts and circumstances of the case; or
  - (B) contrary to the welfare and best interests of the child; and
- (2) incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (d).

(c) The juvenile court may incorporate a finding or conclusion from a pre-dispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

(d) If the juvenile court enters findings and a decree under subsection (b), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(e) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

- (1) any programs or services implemented during the appeal initiated under subsection (d), other than the cost of an out-of-home placement ordered by the juvenile court; and
- (2) any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the juvenile court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the department shall file a notice with the Indiana judicial center.

<b>Henry County Probation Department Juvenile</b>	Chapter Section
Subject: Dual Status Cases	Date Effective: 12/17/2015 Date Revised:

**Policy:**

Youth that meet the statutory criteria for being designated as “Dual Status” cases with Probation and DCS should be reviewed for the proper notice to the Court and coordination of services for the youth and family.

**Procedure:**

1. Upon receipt of an arrest report, the probation officer shall prepare a dual status screening tool on all cases where a formal petition is filed. The Probation Officer shall notify the Chief Probation Officer if there are DCS contacts noted, who will confer with the DCS Local Director (LOD) to determine if there will be a recommendation for dual status.
2. Upon notifying the Chief Probation officer of documented contacts with DCS and or discovering DCS contacts through the case management systems including Odyssey, the CPO and DCS LOD will confer regarding the case and attempt to reach consensus regarding the recommendation regarding the convening of a Dual Status Team. If the CPO and LOD concur that the contacts are too remote in time, they may agree that the prior contacts are only noted in the Preliminary Inquiry but that a Dual Status Screening Tool should not be filed with any informal adjustment or formal case that is filed.
3. Absent a concurrence that any prior DCS contacts are too remote, the Probation Officer shall complete the Dual Status Screening Tool and submit it to the Court upon filing the Petition Alleging Delinquency or the Informal Adjustment, using this case number, when the youth has involvement listed in the contacts included with the police report. The Dual Status Screening Tool shall include the recommendation regarding the convening of a Dual Status Team.
4. The PO should ensure that copies of the Dual Status Screening Tool are distributed to the Court, DCS, Prosecutor, the Public Defender and CASA Director.
5. The Court will then review the Dual Status Screening Tool and determine if a Dual Status Team Meeting will be ordered to convene.
6. Once the Court has ordered the Dual Status Team to convene, the initiating agency will set up the meeting to include Probation, DCS, CASA, and other providers that may already be involved to review the case for possible Dual Status recommendations to the Court.
7. Following the Dual Status Team convening, the initiating agency shall prepare a report to the Court with recommendations regarding the case being considered a Dual Status and if so who will be the “lead agency.”

8. Upon the Court designating the case as a Dual Status Case, all further violations, major occurrences, situations of non-compliance, notable concerns or considerations for modifications or terminations, will be reviewed by the Dual Status Team upon their reconvening to consider information presented by the agencies involved. Written reports of the recommendations from these meetings shall be prepared by the lead agency, filed with the Court and provided to the agencies involved with the case. The Dual Status team shall meet on a regular basis, as necessary, until case closure.

9. In the event a Dual Status Screening Tool is received by the Probation Department and there is no open probation case, then the Dual Status Screening Tool will be filed in the DUAL STATUS SCREENER INFORMATION file for future reference only.